

**LARRY JEFTS FARMS, LLC
PO BOX 27
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(808) 688-2892**

HB779hd1, Relating to Pesticides
House JHA Hearing
Tuesday, February 16, 2021
Videoconference – 2:00pm

Testimony By: Larry Jeffs
Position: Support

Chair Nakashima, Vice Chair Matayoshi, and Members of the House JHA
Committee:

I am Larry Jeffs, owner and operator of Larry Jeffs Farms, LLC. We have more than 42 years of Hawaii farm experience on Molokai and Oahu. I am a volunteer director, serving as Chair of the West Oahu Soil and Water Conservation District (SWCD). I have been an officer of the Hawaii Farm Bureau for many years.

We support this proposal to establish an affordable and accessible RUP and non-RUP pesticide disposal program. This would provide farmers a means for legal and safe disposal of outdated, banned, or no longer used pesticides.

Your support of HB779hd1 is requested. Thank you for the opportunity to present testimony.

HB-779-HD-1

Submitted on: 2/13/2021 1:21:09 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tim Lyons	Hawaii Pest Control Association	Comments	No

Comments:

We support the establishment of the pesticide disposal program.

We oppose increasing the fines as we beleive they ae sufficient.



HB 779, HD 1, RELATING TO PESTICIDES

FEBRUARY 16, 2021 · HOUSE JUDICIARY AND
HAWAIIAN AFFAIRS COMMITTEE · CHAIR REP.
MARK M. NAKASHIMA

POSITION: Support.

RATIONALE: Imua Alliance supports SB 779, HD 1, relating to pesticides, which requires the Department of Agriculture, in consultation with the Department of Health, to develop and implement a one-time pesticide disposal collection program, for a duration to be determined by the department, requires the Department of Agriculture to convene a steering committee to guide and monitor the pesticide disposal collection program; and increases penalties for violating the Hawai'i pesticides law.

In the debate over regulating local agriculture, there is one thing that everyone should agree to condemn: causing harm to other people. Unfortunately, Hawai'i's pesticide code allows chemical abuse to go unchecked. Today, the State Department of Agriculture must warn pesticide abusers before investigating potential legal violations. A farm that fails to take caution when using harmful chemicals, then, may suffer no consequences for its actions, since the warning gives owners time to hide evidence of their crimes. Even when caught, chemical criminals face minimal penalties. State law currently grades pesticide abuse as a merely a misdemeanor offense, meaning farm operators who apply dangerous doses of chemicals face a maximum one-year prison sentence.

In the islands, pesticide abuse poses major health risks. According to an investigation conducted by the *Cascadia Times*, pesticide application by four large agrichemical companies on Kaua'i—Syngenta, BASF Plant Science, DuPont Pioneer, and Dow AgroSciences—is ten times the national average. In their report, *Cascadia* found that a number of restricted use pesticides were overused, including chlorpyrifos, atrazine, and paraquat. A study published in the medical journal *The Lancet Neurology*, in March of 2014, found

that the neurotoxin chlorpyrifos led to developmental disabilities in children. Similarly, atrazine and paraquat are banned in the European Union. Atrazine is known to contaminate groundwater supplies, while paraquat has been linked to the onset of Parkinson's disease. Yet, both herbicides remain widely popular in the United States, where the Environmental Protection Agency prematurely declared with “reasonable certainty” that neither carry a significant risk of harm.

Pesticide abuse is not limited to the outer islands. On O'ahu, Imua Alliance has provided services to cancer-stricken sprayers of restricted use pesticides, some of whom have are also victims of labor trafficking. Not only were our clients provided with little to no information about the health risks of pesticides placed in their hands, they were also not given equipment to protect themselves from harm. To protect against pesticide abuse that impacts sensitive educational areas and makes children ill—as happened in 2007 at Kahuku High and Intermediate, in which a dozen students fell ill when a nearby sod farmer ignored windy weather while applying pesticides, and in 2008 in Waimea on Kaua'i, where dozens of students got sick after farmers applied pesticide on a nearby seed corn plot—it is incumbent upon lawmakers to pass legislation increasing penalties for people who recklessly assault our communities with chemical poison.

In addition to this measure, we urge local lawmakers to pass legislation eliminating warning notice requirements from the state's pesticide code, allowing investigators to probe allegations of noncompliance without tipping off their targets. Policymakers should simultaneously ensure that the Department of Agriculture has the clear capability to refer pesticide violations to law enforcement. It's time we started prosecuting those who sacrifice people's health to personal profit.

Elected officials recently passed SB 3095 (act 45), banning chlorpyrifos and establishing increased disclosure requirements for pesticide application. It is imperative that political leaders stand up for safety again this year, given recent court rulings curtailing county jurisdiction over pesticide use and land management. If you wait, our children will breathe in the fallout for generations to come.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org



Testimony from Jeff Case, Senior Director Government Affairs, CropLife America

Comments on HB 779 HD 1 – Relating to Pesticides

Tuesday, Feb. 16, 2 pm

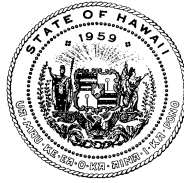
House Committee on Judiciary and Hawaiian Affairs

Aloha Chair Nakashima and members of the committee,

CropLife America (CLA) is the national association representing manufacturers, formulators, and distributors of pesticides products used in agriculture production. We support and promote scientific-based policy in the regulation of pesticide products at both the state and federal level. We support Part I of HB 779 – the pesticide disposal program - but request an amendment to delete Part II of the bill to increase penalties to farmers.

All farmers struggle with ensuring the viability of their crops and they face a number of challenges including access to water, affordable transportation, manpower, pest and disease, and financial sustainability. With so many issues, there is always the chance that farmers are unable to keep up with the ever-changing pesticide regulatory system which appropriately reviews pesticides for their environmental, health and safety impact. We believe Part I of HB 779 provides all farmers with an important tool to legally respond to discontinued pesticides that might still be present on their farms and dispose of them in a manner safe for the community, their farm, and their families. However, Part II places an undue hardship and burden on farmers. We would appreciate a demonstration of need that the current penalties are insufficient to deter violators or respond to repeat violations. The bill offers farmers a hand up then uses a hammer to knock them back down.

Thank you very much for your consideration.



STATE OF HAWAII
DEPARTMENT OF HEALTH
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WRITTEN
TESTIMONY ONLY

**Testimony in SUPPORT of HB779 HD1
RELATING TO PESTICIDES**

REPRESENTATIVE MARK M. NAKASHIMA, CHAIR
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date: 2/16/2021

Room Number:

Via Videoconference

- 1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities.
- 4 **Department Testimony:** The Department supports this measure directing the Department of
5 Agriculture, in consultation with the Department, to develop and implement a one-time pesticide
6 disposal program offering safe collection and lawful disposal of unwanted pesticides from bona
7 fide agricultural entities and licensed pest control operators. These waste chemicals can become
8 a serious public health and environmental threat when not managed properly and if accumulated
9 for long periods of time.
- 10 This bill has tremendous potential to provide environmental and human health benefits for the
11 community by removing threats to residents, waterways, and the environment. This measure is
12 timely, as legal disposal options are limited in Hawaii, and the longer waste pesticides are left
13 unmanaged, the more likely the container will leak, the label will be become unreadable,
14 someone will be exposed, or the chemicals will leach into the ground or wash into nearby
15 waterways.
- 16 Farmers and other businesses have a legal obligation to properly dispose of the waste pesticides
17 that they generate, including those qualifying as hazardous waste. Waste pesticide collection
18 programs have been established in other states that require farmers to provide inventories of
19 waste materials being received by the waste contractors conducting the events. With proper

- 1 documentation, hazardous waste pesticides can be properly managed as universal waste under
- 2 such a collection program.
- 3 **Offered Amendments:** None
- 4 Thank you for the opportunity to testify on this measure.



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February 16, 2021

HEARING BEFORE THE
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

TESTIMONY ON HB 779, HD1
RELATING TO PESTICIDES

Conference Room 325
2:00 PM

Aloha Chair Nakashima, Vice-Chair Matayoshi, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau strongly supports Part 1 of HB 779, HD1, which develops and implements the Pesticide Disposal Collection Program within the Department of Agriculture to provide a one-time, affordable, and environmentally accessible means for the disposal of pesticides from a bona fide agricultural entity, and convenes a Program Steering Committee to guide and monitor the program.

While some of Hawaii's counties already provide for periodic *residential household* hazardous waste collection, **farmers are not eligible to participate** in these events. The majority of states/counties across the country periodically hold unwanted pesticide collection events specifically for farmers and ranchers – from the very small to the largest farms. Unfortunately, Hawaii does not. Although our isolated location and the need for numerous island collection sites make this type of program logistically complex, and costly, it would certainly benefit farmers and ranchers, and their communities.

HFB agrees that the State Advisory Committee on Pesticides should guide and monitor the pesticide disposal program. This Committee is the appropriate body to hold that role and responsibility. Its members are vetted Governor-appointees, confirmed by the Senate, experienced in pesticide laws, regulations, and use, and include HDOA, HDOH, DLNR, the environmental community, pesticide user group representatives, and the public. They also have the farmer connections necessary to help make the program a success.

HFB would also be pleased to partner with HDOA to help with this program, as we have knowledge and experience in this area, having assisted the agency in the last agricultural pesticide disposal program conducted twelve years ago.

HFB respectfully disagrees with Part II of this bill, which would arbitrarily increase the administrative and criminal penalties, **doubling some and increasing others five-fold**. To our knowledge, there are **no** farms that intentionally violate pesticide laws and that would consider the already-significant penalties and terrible public relations as a “cost of doing business.” For the vast majority of farms in Hawaii, even the current penalties, not to mention the negative press, could quickly put them right out of business.

Thank you for the opportunity to testify on this important subject and for your support of Hawaii’s farmers and ranchers.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

February 16, 2021
2:00 P.M.
VIDEOCONFERENCE

**HOUSE BILL NO. 779, HD1
RELATING TO PESTICIDES**

Chairperson Nakashima and Members of the Committee:

Thank you for the opportunity to testify on House Bill 779, HD1 relating to Pesticides. The bill appropriates funds from the general fund for fiscal year 2022-2023 to the Hawaii Department of Agriculture to develop, in consultation with the Hawaii Department of Health, and implement a pesticide disposal program to provide a one-time, affordable, and environmentally accessible means for the disposal of restricted use pesticides and non-restricted use pesticides from a bona fide agricultural entity and licensed pest control operators. Additionally, the bill directs the Department to convene a steering committee to guide and monitor the pesticide disposal amnesty program and increases fines for pesticide use violations. The Department strongly supports the intent of this bill.

The Department strongly supports the concept of a one-time pesticide disposal program. Currently, there exists in most counties in the State of Hawaii, a pesticide disposal program for household pesticide products, but not for commercial and other types of pesticide products. The proposed disposal program will make a positive impact



on the health and wellbeing of residents and the environment by removing unused and unwanted pesticide products from the State.

The Department is aware of a number of growers with excess products that are not able to be safely stored, transported, or used. The condition of the containers are usually questionable at best and many have directions for use that may not be legible due to time in the elements. Moreover, the Department has received numerous calls where a family has inherited land with pesticides found in the storage. The family has either no desire, or ability to use the products but wants to dispose of them safely and legally. However, disposal of agricultural pesticide products is beyond the financial means of many families and businesses. The need for an agricultural pesticide disposal program in Hawaii is imminent and essential to the safety of Hawaii's people and the environment.

The Department has reservations with the inclusion of Licensed Pest Control Operators to the program. While adding a large base of pesticide users to the disposal program is in theory a good idea, however Licensed Pest Control Operators do not inherit old pesticides and possess excess products. The Department has not received a single request from a licensed Pest Control Operator to assist with removal and disposal of excess pesticides. As commercial operators, they are subject to the same responsibility for disposal of hazardous waste as other commercial facilities are required to do. Funding the responsibility of commercial facilities disposal would be taking away much needed disposal resources from agricultural entities.

The Department supports increased fines for pesticide use violations. Fines for violations of Hawaii Pesticide Laws have not increased for 21 years for commercial pesticide applicators and nearly 50 years for private pesticide applicators.

The Department is provided discretion in all violations and fines but usually starts violators off with small fines. The Department only increases fines as violators made repeat violations or if there are other major environmental or human health or safety

violations. Granting the Department with the ability to fine repeat violators does not stop the Department from beginning with minimal fines for first and second-time violators.

There exists a subset of applicators, both commercial and private that defy the pesticide laws no matter how many warning notices or civil penalties they are issued. Over the last 5 years, the Department's Pesticides Branch issued an average of 30 notices of violation, almost all of which are issued exclusively to repeat violators. The Department has, in several cases over the last 5 years, fined violators the maximum \$5,000 per violation. After refusal to comply with pesticides laws, entities with more than 3 or 4 enforcement actions are referred to EPA.

Currently, if the Department feels that our maximum possible fine has not deterred a violator from violating again, either due to the egregiousness of the violation or due to lack of compliance history by the applicator, we refer the case to the U.S. Environmental Protection Agency (EPA). If the EPA takes enforcement action, enforcement and closure of the case takes a longer period of time than if the matter is resolved within our current system. The fines from EPA can also be substantial; up to and including hundreds of thousands of dollars, and any collected fines go to the EPA rather than the State.

After the passage of Act 45 SLH 2018, all fines collected by HDOA for violations of 149A, HRS are placed into the pesticide use revolving fund, where they may be used for training, educational workshops, environmental surveys, and other pesticide branch related activities. The Department, as well as local growers and companies would benefit from fines going to the Department, rather than going to EPA. The Department would only use these highest end fines for businesses and individuals who repeatedly violate pesticide law without any attempt to better their practices.

Thank you for the opportunity to testify on this measure.

HB-779-HD-1

Submitted on: 2/15/2021 3:18:48 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maui OFR	Individual	Support	No

Comments:

HB-779-HD-1

Submitted on: 2/15/2021 3:53:45 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Perrine	Individual	Support	No

Comments:

I support HB779



HAWAII CROP IMPROVEMENT ASSOCIATION

In Support of the Intent of HB779 HD1
Relating to Pesticides

House Committee on Judiciary & Hawaiian Affairs

Date: Tuesday, February 16, 2021
Time: 2:00 p.m.
Place: Via Video Conference
Conference Room 325

Chair Nakashima, Vice-Chair Matayoshi, and members of the committee:

Thank you for allowing the Hawaii Crop Improvement Association the opportunity to provide testimony in support of the intent of HB779 HD1 which requires the department of agriculture, in consultation with the department of health, to develop and implement a one-time pesticide disposal collection program, for a duration to be determined by the department; requires the department of agriculture to convene a steering committee to guide and monitor the pesticide disposal collection program; and increases the civil and criminal penalties for violating the Hawaii pesticides law.

The Hawaii Crop Improvement Association applauds the Hawaii State Legislature for taking up this important measure to support local farmers, ranchers, responsible pesticide applicators, and communities across the State. This proposed program is a proactive step towards empowering the Hawaii Department of Agriculture (HDOA) to regulate, educate, and support Hawaii's pesticide applicators.

At this time, the Hawaii Crop Improvement Association defers to the comments of the wider agricultural community regarding the proposed changes to the administrative and criminal penalties in Part 2, Section 4 of this measure.

Mahalo for this opportunity to testify in support of the intent of HB779 HD1. If you have any questions, please contact me at your convenience.

Sincerely,

Emmanuel Zibakalam

Executive Director, Hawaii Crop Improvement Association

The Hawaii Crop Improvement Association is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration, and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy economy.

HB-779-HD-1

Submitted on: 2/15/2021 5:07:13 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicholas A Kida-Rodrigues	Individual	Support	No

Comments:

I support this bill that requires the department of agriculture, in consultation with the department of health, to develop and implement a one-time pesticide disposal collection program, for a duration to be determined by the department. Requires the department of agriculture to convene a steering committee to guide and monitor the pesticide disposal collection program. Increases the administrative and criminal penalties for violating the Hawaii pesticides law. Appropriates money. Effective 7/1/2050. (HD1)



House Committee on Judiciary & Hawaiian Affairs

Hawai'i Alliance for Progressive Action (HAPA) Supports: HB 779 HD1

Tuesday, February 16th, 2021 2:00 p.m.

Aloha Chair Nakashima, Vice Chair Matayoshi and Members of the Committee,

HAPA supports safe and responsible disposal of pesticides to better protect our community and environment. We strongly support increasing the maximum fines for pesticide use violations.

It is critical to our environment and public health that these pesticides are not dumped into rivers, backyards and sewage facilities and HB 779 HD1 helps to accomplish this. The impacts of improper dumping of pesticides in surrounding environments and sewage facilities are devastating and cascading.

HAPA is concerned with how location sites will be selected for collection and disposal. Historically such dump sites have often been placed near economically disadvantaged communities and native Hawaiian communities. The bill should clarify that the steering committee includes representatives from OHA and other stakeholders from an appropriate environmental justice organization.

HAPA also strongly supports the provision to increase to the maximum fine amounts for pesticide use violations.

Pesticide violations are a threat to our keiki, farmworkers and communities living near heavily sprayed fields. Improper use, disposal and drift threatens to harm adjacent, non-target plants and species, to lead to short and long-term contamination of the state's soil, air and water and takes a toll on human health and quality of life. Despite these risks, pesticide misuse has, and continues to occur.

In 2016¹ and 2017², Syngenta failed to adhere to pesticide use instructions on Kaua'i exposing 77 farmworkers to the now banned neurotoxin, *chlorpyrifos*. This led to the hospitalization of ten farmworkers.

¹<https://www.staradvertiser.com/2016/01/23/hawaii-news/kauai-farmworkers-hospitalized-after-being-exposed-to-pesticide/>

² <https://www.civilbeat.org/2018/02/epa-settles-syngenta-pesticide-claim-for-pennies-on-the-dollar/>

In 2019³, Monsanto/Bayer pleaded guilty to using an illegal banned pesticide, *Penncap-M*, on Maui and Moloka'i. This is linked to impaired neurological development, chronic fatigue syndrome, and Parkinson's disease.

Too often pesticide violations are considered an acceptable "cost of doing business" by large multi-billion dollar industrial operations. Increasing fines will help create a better deterrent for future violations.

For the disposal program, we suggest that the thresholds are set to ensure accountability for large corporate users who can afford to dump appropriately. In other measures large pesticide users have been defined as those using more than 5 lbs or 15 gallons of any specific pesticide (formulated product). To ensure that the state is not allowing large multi-billion dollar agricultural corporations to shift their financial and legal responsibility to taxpayers, a threshold of 5 lbs/15 gallons should be adopted as the cut off for any amnesty program.

This bill is an important step towards better protecting our farmworkers, frontline communities and the environment from pesticide misuse, please support HB 779 .

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', with a long horizontal stroke extending to the right.

Anne Frederick
Executive Director

³<https://www.earthisland.org/journal/index.php/articles/entry/monsanto-guilty-of-spraying-banned-pesticide-on-maui-fields/>

HB-779-HD-1

Submitted on: 2/15/2021 6:09:30 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Fern Anuene Holland	Individual	Support	No

Comments:

Mahalo Representatives for hearing this bill! My 'ohana and I strongly support HB779.
Mahalo!

HB-779-HD-1

Submitted on: 2/15/2021 6:44:08 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Charlie Quesnel	Surfrider Maui Chapter	Support	No

Comments:

I support this bill.

HB-779-HD-1

Submitted on: 2/16/2021 7:04:44 AM

Testimony for JHA on 2/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Klayton Kubo	Individual	Support	No

Comments:

Support